

UNITED STATES BANKRUPTCY COURT  
EASTERN DISTRICT OF NEW YORK

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JEAN S. JEAN-FRANCOIS

Chapter 13  
CaseNo. 13-44946

Debtor(s)

**NOTICE OF MOTION**

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SIRS/MADAMS:

PLEASE TAKE NOTICE that Victor M. Wilson, Esq., attorney for the above-captioned debtor, will move before the Honorable Carla E. Craig, United States Bankruptcy Judge, on the day of October, 2013 at 10:00 AM, at the United States Bankruptcy Court located at 271 Cadman Plaza East- Courtroom No. 3529, Brooklyn, New York 11201, for an order invalidating the auction sale of the real property located at 3502 Church Ave, Brooklyn, New York which was held on August 15, 2013 by the Supreme Court foreclosure referee, for sanctions, cost, and for such further relief as this Court deems just and proper.

PLEASE TAKE FURTHER NOTICE that answering papers, if any, shall be filed with the court and served on the undersigned no later than three (3) days prior to the return date of this motion.

Dated: Brooklyn, New York  
September 23, 2013

Yours, etc.



Victor M. Wilson, Esq.  
Attorney for Debtor  
841 Park Place  
Brooklyn, New York 11216

To: Office of the United States Trustee  
201 Varick Street, Suite 1006  
New York, New York 10014

Michael J. Macco, Trustee  
135 Pinelawn Road, Suite 120 South  
Melville, New York 11747

Ocwen Loan Servicing LLC  
c/o Leopold and Associates  
80 Business Park Drive Ste. 110  
Armonk, NY 10504

Church Avenue Partners  
c/o Berkman, Henoch, Peterson, Peddy and Fenchel  
100 Garden City Plaza  
Garden City, NY 11530

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AFFIDAVIT

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Jean S. Jean-Francois, after duly being sworn, deposes and says as follows:

1. I am the debtor in the above -captioned proceeding and as such, I am familiar with the facts and circumstances of this case.

2. I filed this bankruptcy proceeding since I was about to lose my house located at 3502 Church Avenue, Brooklyn, New York due to a foreclosure judgment entered against me at the Brooklyn Supreme Court. I received notice on or about August 7, 2013 that my property was about to be sold at auction on August 15, 2013.

3. I, in desperation, sought appropriate legal advice to prevent the auction sale since I wanted to continue my efforts in negotiating with the mortgagee, Flushing Savings Bank, FSB, a payment plan.

4. I, unfortunately had defaulted on my mortgage due to my sudden illness with congestive heart failure on August 26, 2008. As a result, I was unable to return to work.

5. While in the process of negotiating a modification agreement with Flushing, two men, namely, Solomon and Ely came to my house and informed me that brother who works at Flushing Savings Bank will assign the note to them and that I should accept the sum of \$50,000.00, or else I will lose everything. I later found out that they are the owners of 3502 Church Avenue Partners, LLC.

6. Additionally, they gave my wife a letter forcing whereby she was to sign an faulty acknowledgment that I was perfectly competent to throughout my illness.

7. My wife refused to sign the hand written letter and gave it to me. A copy of this letter is attached herein as "Exhibit A". Subsequently, whereupon I received no further notice regarding my application for a modified payment plan.

8. My illness continued and I ended up with a massive stroke on May 10, 2010 which resulted in my paralysis on my right side. I was also unable to talk.

7. Due to my disability, my only source of income was social security disability benefits at \$1100.00 per month.

8. Notwithstanding the fact that I filed for bankruptcy protection two days prior to the public auction, and ignoring the fact that my bankruptcy attorney, Mr Wilson's office notified the referee and the attorney for 3502 Church Avenue Partners, LLC of the bankruptcy petition with proof of filing on August 14, 2013, both referee and attorney for Church Avenue Partners, LLC, violated the automatic stay and sold the property to the highest bidder.

9. Their violation resulted in me being illegally evicted from my premises on September 12, 2013. My wife was severely bitten by Ely's worker. A copy of the police report is attached as "Exhibit B".

10. She was taken to Brookdale Hospital for treatment. A copy of her medical treatment is attached herein as "Exhibit C".

WHEREFORE, I respectfully request that this Court order invalidate the referee's conveyance to the purchase, for costs, and for any other relief that this Court deems just and proper.

VERIFICATION

STATE OF NEW YORK, COUNTY OF KINGS ss.:

I, the undersigned, being duly sworn, depose and say: I am the creditor in this action; I have read the foregoing affidavit and know the contents thereof; the same is true to my knowledge, except as to the matters therein stated to be alleged on information and belief, and as to those matters I believe them to be true.

Jean S Jean Francois  
Jean S. Jean-Francois

Sworn to before me on

*September 27, 2013*

Victor M. Wilson  
Notary Public  
State of N.Y. 02W14984248  
Qualified- Kings County  
Commission Expires July 15, 2015

**EXHIBIT “A”**

Wife letter

5/28/12

To Whom it may concern;

I \_\_\_\_\_ confirm that:

My husband Mr \_\_\_\_\_ is fully mentally  
competent and understanding of his surroundings and  
was fully mentally stable throughout his past &  
present illness.

Best,

\_\_\_\_\_

Dr letter

5/25/12

To Whom it may concern:

This is to confirm that my pt Mr \_\_\_\_\_ has no mental issues, Throughout his medical issues in the recent years, there was never an issue with Mr \_\_\_\_\_ competence, He is fully without mentally and even able to operate a car etc,

D- \_\_\_\_\_



**EXHIBIT “B”**



## INCIDENT INFORMATION SLIP

PD 301-164 (Rev. 3-98)-Pent (RMU)

Date: 9/24/13Welcome to 67 Precinct 2820 Snyder Avenue, Brooklyn, NY 11226  
(Command) (Address)

(718) 287-3211

(Telephone No.)

We hope that you business with us was handled satisfactorily. Your particular matter has been assigned the following number(s)

Complaint Report No.: \_\_\_\_\_ Accident Report No.: 2209

Aided Report No.

Reported to: PAPA Olanlege 328683 Date of Occurrence: 9/12/2013 Time: \_\_\_\_\_  
(Rank) (Name) (Shield No.)Location of Occurrence: 3502 Church AvenueCrime: Assault 1st

Please keep this report should you have to refer to this matter in the future. If you need any further assistance feel free to contact us at telephone number (718) 287-3238. Please let us know if you have any suggestions on how we can better serve you. As you may already know, we will provide you with a crime prevention survey of your residence or business. Please ask for more information on this and other crime prevention initiatives. Our goal is to make you and your property safe.

COURTESY – PROFESSIONALISM – RESPECT

REMEMBER: CALL “911” FOR EMERGENCIES ONLY!!!

**EXHIBIT “C”**

**The Brookdale Hospital Medical Center**One Brookdale Plaza, Brooklyn, NY 11212  
(718) 240-5000

Printed 09/16/2013 18:16

**Patient Name**      **Age**      **DOB**      **Gender**      **Race**  
 JEAN-FRANCOIS,      50 yrs      03/16/1963      Female      BLACK  
 IDOCSILE  
 Allergies: Denies allergies

**Insurance**  
 NO

**Admitting Weight**      **Admitting Height**      **Medical Record**      **Account**  
 89.36kg      167.64cm      2519033      475612222

**Reg. Date** 09/16/2013 16:46  
**Adm. Date** 09/16/2013 16:46

Room ED:FT WR-

# Discharge-Home Instructions

**Discharge Diagnosis**

Neck Pain

Physical Assault

Neck Spasm

**Discharge Activity****Discharge Diet****Discharge Instructions****Discharge Prewritten Instructions**

Follow Up Date/Time	Practitioner Name	Clinic Name	Address	City	State	Zip	Phone
	PMD						

**Comments****Prescriptions**

Rx: <b>Mobic 15 mg Tab, Patient Instructions: take 1 tablet (15 MG) by oral route daily</b>	Refills 0	Qty 20
Rx: <b>Flexeril 10 mg Tab, Patient Instructions: take by Oral route at bedtime</b>	Refills 0	Qty 7

Print Date/Time: 9/16/2013 6:16:24 PM

Received transitional record: Diagnosis, Diagnostic Results, Procedures, Follow-up/Patient Instructions, and Home Medication List

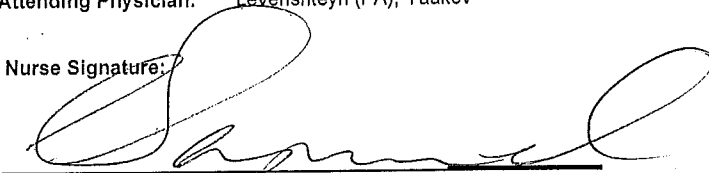
Discharge Date/Time: 9/16/2013 6:13:00 PM

Attending Physician: Levenshteyn (PA), Yaakov

All patients must follow up with a doctor within 48 hours if there are still medical symptoms or problems

Nurse Signature:

Patient Signature:




**The Brookdale Hospital Medical Center**One Brookdale Plaza, Brooklyn, NY 11212  
(718) 240-5000

Printed 09/16/2013 18:16

**Patient Name**      **Age**      **DOB**      **Gender**      **Race**  
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**Reg. Date** 09/16/2013 16:46

**Room** ED:FT WR-

**Adm. Date** 09/16/2013 16:46

**Medication Reconciliation**

Med Recon Type	Med Type	Medication	Status
DISCHARGE	HOME MEDS	Flexeril 10 mg Tab, , at bedtime	CONTINUE
DISCHARGE	HOME MEDS	Janumet Oral, , daily	CONTINUE
DISCHARGE	HOME MEDS	Lantus SubQ, , daily	CONTINUE
DISCHARGE	HOME MEDS	Mobic 15 mg Tab, 1 tablet(15 MG), daily	CONTINUE
DISCHARGE	HOME MEDS	Norvasc Oral, , daily	CONTINUE